

Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 284

SENATE BILL 1415

AN ACT

AMENDING SECTION 43-401, ARIZONA REVISED STATUTES; RELATING TO WITHHOLDING
TAX RATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-401, Arizona Revised Statutes, is amended to
3 read:

4 43-401. Withholding tax; rates; election by employee

5 A. Every employer at the time of the payment of wages, salary, bonus
6 or other emolument to any employee whose compensation is for services
7 performed within this state shall deduct and retain from the compensation an
8 amount equal to a percentage, determined pursuant to subsection B of this
9 section, of the total amount of the federal income tax deducted and withheld
10 by an employer from the total value of such wages, bonus or other emolument
11 of an employee under the provisions of the United States internal revenue
12 code computed without deductions for any amount withheld.

13 B. The percentage deducted and retained under subsection A of this
14 section shall be:

15 1. If the employee's annual compensation is less than fifteen thousand
16 dollars, ~~10.0~~ TEN per cent, ~~18.2~~ NINETEEN per cent, ~~21.3~~ TWENTY-THREE per
17 cent, ~~23.3~~ TWENTY-FIVE per cent, ~~29.4~~ THIRTY-ONE per cent or ~~34.4~~
18 THIRTY-SEVEN per cent, at the employee's election pursuant to subsection E
19 of this section.

20 2. If the employee's annual compensation is fifteen thousand dollars
21 or more, ~~18.2~~ NINETEEN per cent, ~~21.3~~ TWENTY-THREE per cent, ~~23.3~~ TWENTY-FIVE
22 per cent, ~~29.4~~ THIRTY-ONE per cent or ~~34.4~~ THIRTY-SEVEN per cent, at the
23 employee's election pursuant to subsection E of this section.

24 3. Zero per cent at the election of an employee who had no state
25 income tax liability in the prior taxable year and expects to have no state
26 income tax liability for the current taxable year.

27 C. If the amount collected and payable by the employer to the
28 department in each of the preceding four calendar quarters did not exceed an
29 average of one thousand five hundred dollars, the amount collected shall be
30 paid to the department on or before April 30, July 31, October 31 and January
31 31 for the preceding calendar quarter. If such amount exceeded one thousand
32 five hundred dollars in each of the preceding four calendar quarters, the
33 employer shall pay to the department the amount the employer deducts and
34 retains pursuant to this section at the same time as the employer is required
35 to make deposits of federal tax pursuant to section 6302 of the internal
36 revenue code. On or before April 30, July 31, October 31 and January 31 each
37 year the employer shall reconcile the amounts payable during the preceding
38 calendar quarter in a manner prescribed by the department. For taxable years
39 or reporting periods that begin from and after December 31, 1997, the
40 department by rule may allow and determine which employers qualify for annual
41 payments of withholding taxes, with an annual report by the employer pursuant
42 to section 43-412, subsection B, if the qualifying employer has established
43 sufficient payment history to indicate that the employer is current and in
44 good standing pursuant to standards established by rule. For any business
45 which has not had a withholding certificate for the four preceding

1 consecutive quarters, the quarterly average shall be computed in a manner
2 prescribed by the department.

3 D. If an employer fails to make a timely monthly payment because prior
4 to that reporting period it reported on a quarterly basis instead of on a
5 monthly basis, the department shall notify the employer that it is out of
6 compliance with this section. Notwithstanding section 42-1125, the
7 department shall not assess a penalty against an employer for failing to make
8 a timely monthly payment if the employer had filed and remitted all taxes due
9 on a quarterly basis and brings all filings and payments into current
10 compliance within thirty days after being notified by the department.

11 E. Each employee shall elect the amount authorized by subsection B of
12 this section to be withheld for application toward the employee's state
13 income tax liability. The election provided under this subsection shall be
14 exercised by each employee, in writing on a form prescribed by the
15 department. The election shall be made within five days of employment. Each
16 employer shall notify the employees of the election made available under this
17 subsection and shall have election forms available at all times. Each form
18 shall be completed in triplicate, with one copy each for the department, the
19 employer and the employee. The employer shall file a copy of each completed
20 form with the department. Any employee failing to complete an election form
21 as prescribed shall be deemed to have elected the smallest applicable
22 withholding percentage.

23 Sec. 2. Changes to existing withholding tax rates

24 A. Unless an employee elects to change the rate of withholding tax
25 prescribed by section 43-401, Arizona Revised Statutes, as amended by this
26 act, if an employee's rate of withholding immediately before the effective
27 date of this act was:

28 1. 18.2 per cent, the withholding tax rate shall be increased to
29 nineteen per cent.

30 2. 21.3 per cent, the withholding tax rate shall be increased to
31 twenty-three per cent.

32 3. 23.3 per cent, the withholding tax rate shall be increased to
33 twenty-five per cent.

34 4. 29.4 per cent, the withholding tax rate shall be increased to
35 thirty-one per cent.

36 5. 34.4 per cent, the withholding tax rate shall be increased to
37 thirty-seven per cent.

38 B. This section shall not be construed to preclude an employee from
39 electing any rate of withholding pursuant to section 43-401, Arizona Revised
40 Statutes, as amended by this act.

41 Sec. 3. Effective date

42 This act is effective from and after December 31, 2004.

APPROVED BY THE GOVERNOR MAY 28, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 28, 2004.

Passed the House May 20, 20 04,

by the following vote: 33 Ayes,

27 Nays, 0 Not Voting

Joe Flake
Speaker of the House
Norman L. Syore
Chief Clerk of the House

Passed the Senate May 5, 20 04,

by the following vote: 22 Ayes,

8 Nays, 0 Not Voting

John Blumenthal
President of the Senate
Chaimin Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

24th day of May, 20 04,

at 3:49 o'clock P. M.

Vannifer Ibarra
Secretary to the Governor

Approved this 28 day of

May, 20 04,

at 11³⁰ o'clock A. M.

Jon R. Norht
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 28 day of May, 20 04,

at 1:47 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1415